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July 27, 2011

Honorable John Gleeson
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Allstate Insurance Co., et al. v. Lyons, et al.
Docket No.: cv-11-2190 (JG) (VVP)


Dear Justice Gleeson:

This firm represents defendant, Richard DeNise, M.D., in the referenced action. This letter motion is in compliance with Part 2(A) of your individual rules to request a pre-motion conference in support of filing a motion to dismiss plaintiffs' complaint pursuant to Rules 12(b)(6) and 9(b) as well as 28 U.S.C. §§ 1332 and 1367. It is our intention to join in the arguments as set forth in the letter motions of Theodore Goralski dated July 21, 2011 on behalf of defendants, John S. Lyons, Sanna Kalika, M.D. and Right Aid Diagnostic Medicine, P.C. and Matthew F. Didora dated July 26, 2011 on behalf of Ilya Burshteyn, M.D., A Plus Medical P.C., Omega Medical Diagnostic, P.C. and Shore Medical Diagnostic, P.C.

The motions will seek dismissal based on a failure to state a cause of action upon which relief may be granted and failure to plead with sufficient particularity. The motions would also seek dismissal of the federal RICO claims and several of the state-law claims for failure to assert a claim upon which relief can be granted. The dismissal of the federal RICO claims would eliminate an independent basis for subject matter jurisdiction. We will also request that the court decline supplemental jurisdiction over the unjust enrichment count and that the request for declaratory judgment must fail along with the other counts.

For the reasons set forth above, the defendant joins in the requests for a pre-motion conference and for permission to expand upon the arguments in a pre-answer motion to dismiss plaintiffs' complaint.

Very truly yours,


Maureen Quinn (mq0219)